



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,764	02/16/2005	Yuusuke Inoue	2005_0228A	3418
513 7590 05/16/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3723				
MAIL DATE		DELIVERY MODE		
05/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,764

Applicant(s)

INOUE, YUUSUKE

Examiner

Gary K. Graham

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/DF)
Paper No(s)/Mail Date 2/2005.11/2005.3/2006.11/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, line 3, there is no antecedent basis for “the side portion”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Young III, et al (US patent 5,920,950).

The patent to Young discloses the invention as is claimed. Young discloses a one piece joint member (fig.3,5) used in rotatably joining a wiper arm to a wiper blade (fig.1). The joint member is comprised of a fitting member (20), a fixing member (30) and a flexible plate-like connecting portion (32) connecting ends of the members together. The fitting member includes a portion (24) for fitting into a hook portion of a wiper arm. The fixing member supports the hook portion of the arm by sandwiching the hook portion between the fixing member and the fitting member.

With respect to claim 3, the fixing member is considered as “case-like”, at least as far as defined, and will cover at least a portion of the fitting member at the front edge.

With respect to claim 6, the side portions (22) will abut against the walls (17) of the wiper blade main body.

With respect to claims 7 and 8, Young discloses mounting portion (26) which rotatably fits on a central retaining pin of the wiper blade lever (10). Therefore, the fixing member is considered as rotatably mounted on the wiper blade via this connection.

With respect to claim 10, note that the connecting portion (32) extends across the front of the joint member to both sides (22) thereof. Therefore, the fixing and fitting members are joined at side portions.

Claims 1-8, 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Dal Palu (GB patent 2156666).

The patent to Dal Palu discloses the invention as is claimed. Dal Palu discloses a one piece joint member (5, figs.1,6) used in rotatably joining a wiper arm (6) to a wiper blade (1, fig.1). The joint member is comprised of a fitting member (11), a case-like fixing member (11') and a flexible plate-like connecting portion (12) connecting side portions of the members together. The fitting member includes portions (13-15) for fitting into a hook portion (8) of the wiper arm (6). The fixing member supports the hook portion of the arm by sandwiching the hook portion between the fixing member and the fitting member. The fixing member includes both side portions and a front portion (fig.6) disposed on a front and side to sandwich the hook portion of the arm.

With respect to claim 3, the fixing member is considered as "case-like", at least as far as defined, and will cover at least a portion of the fitting member, along the entire side.

With respect to claim 6, the side portions will abut against the walls (3) of the wiper blade main body (1).

With respect to claims 7 and 8, Dal Palu discloses mounting portion (16) which rotatably fits on an orthogonal central retaining pin (4) of the wiper blade lever (1).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 7, 8, 12 and 13 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2, 2, 4, 8 and 9, respectively, of copending Application No. 10/529,879. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '879 claims fully anticipate the claims of the instant application. Even though the '879 application employs different terminology, it sets forth the same structure with the same function. The '879 application sets forth a base member for attachment to a wiper blade, a locking member and a flexible connecting member joining the two together. While the '879 claims set forth additional structure, such as a side pin, such does not prevent the claim from reading on the instant application claims. The '879 application claims are essentially the "species" claims while the instant application claims are the "genus" claims. It has been held that the "species" claims anticipate the "genus" claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3723

GKG
11 March 2008